

MINUTES

UTAH OSTEOPATHIC PHYSICIAN AND SURGEON'S LICENSING BOARD MEETING

October 13, 2011

**Room 2B – 2nd Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:10 A.M.

ADJOURNED: 11:50 A.M.

Bureau Manager:

Noël Taxin

Board Secretary:

Karen McCall

Compliance Specialist:

Kent Barnes, Senior Business Analyst

Board Members Present:

Warren Peterson, DO, Chairperson

Keith Ramsey, DO

Layne A. Hermansen, DO

Noel C. Nye, DO

Board Members Absent:

Jane Brown

DOPL Staff Present:

Neena Bowen, Compliance Specialist

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Board Chairperson

Dr. Hermansen made a motion for Dr. Peterson to continue as Board Chairperson. Dr. Ramsey seconded the motion. The Board vote was unanimous.

MINUTES:

The minutes from the April 21, 2011 Board meeting were read.

Dr. Hermansen made a motion to approve the minutes as read. Dr. Ramsey seconded the motion. The Board vote was unanimous.

APPOINTMENTS:

9:20 am

Kent Barnes, Compliance Update

Mr. Barnes updated the Board regarding the compliance or non-compliance of probationers.

Mr. Barnes reported **Dr. Larry G. Andrew** is currently in compliance with his Stipulation and Order. He stated Dr. Andrew was contacted regarding a concern with his compliance log and Dr. Andrew made an immediate response to correct the concern. He stated Dr. Andrew goes the extra mile to be in compliance.

Dr. Peterson stated in June he dropped in at Dr. Andrew's office unannounced. He stated Dr. Andrew was not in that day but the staff were very open, direct and willing to assist him with his review which lasted about half an hour.

Ms. Taxin stated Dr. Kronmiller's reports are very positive. She stated she believes Dr. Andrew has looked internally and made positive changes within himself.

Mr. Barnes reported **Dr. Vaughn T. Johnson** is currently in compliance with his Stipulation and Order. He stated Dr. Johnson provided copies of the completed CE and of his Delegation of Services Agreement for the Board to review.

Ms. Taxin explained Dr. Johnson is not yet supervising any PA's but when he does supervise he would have to review the charts and co-sign all schedule II and III CS's. She stated the Board will need to clarify with Dr. Johnson to incorporate the CS review into his Delegation of Services.

Dr. Peterson stated the Delegation of Services requires the DO to be immediately available by cell phone. He asked how that works if the supervising DO is out of the country.

Dr. Hermansen responded if the supervising DO is

out of the country then the substitute should be available if necessary. He then asked what more the Board can discuss or do for Dr. Johnson as he will be on probation for two more years.

Ms. Taxin stated the Board should discuss with Dr. Johnson how the process has helped him be a better practitioner and if there is nothing more to be accomplished and he is in compliance then the Board could recommend early termination.

Mr. Barnes commented there are some probationers who want to continue meeting with the Board to help them be compliant.

Dr. Hermansen suggested Dr. Johnson start meeting every 6 months for awhile.

Dr. Peterson asked if the Delegation of Services Agreement Dr. Johnson submitted is an example of what and how he would supervise a PA.

Ms. Taxin responded yes. She stated the Board could suggest Dr. Johnson try to get approval to be the supervisor of the PA in order to get some feedback and to see how he does supervising.

Dr. Hermansen stated Dr. Johnson's practice has changed into more of a boutique practice where patients pay a specific amount for services for a year.

Mr. Barnes reported **Dr. Raymond L. Bedell** is out of compliance with his Stipulation and Order.

Ms. Taxin stated she believes Dr. Bedell is making more of an effort but the logs still say re-evaluation and do not have what specific type of re-evaluation took place. Ms. Taxin reminded Dr. Hermansen that he gave Dr. Bedell an example of how the Board expects the log to be completed. She stated Mr. Yonk sent a letter documenting Dr. Bedell's compliance with his court ordered probation but they have no way to monitor the CS prescriptions

Dr. Bedell writes. Ms. Taxin stated the psychological evaluation continues not to be submitted.

9:30 am

Dr. Larry G. Andrew, Probationary Interview

Dr. Andrew met for his probationary interview.

Dr. Ramsey conducted the interview.

Dr. Andrew stated he is still working at his own office and on Fridays he works at the Murray office doing hormone therapy and consultations. He stated both practices are doing well.

Ms. Taxin asked if Dr. Andrew has had feedback from his patients and if any feedback has been in regard to boundaries or feelings. She also requested Dr. Andrew to address his therapy.

Dr. Andrew responded yes, he has had overall positive feedback but many are saying his fees are too low. He stated he has had no feedback regarding boundaries or feelings. Dr. Andrew stated he meets monthly with his therapist and looks forward to their sessions. He stated the therapy has helped him and his marriage.

Dr. Peterson asked the timeframe for him receiving therapy.

Dr. Andrew responded he believes his therapist is looking for guidance from the board regarding how long his therapy should continue as he has been meeting his goals.

Ms. Taxin explained the Board relies on the therapist as the professional to give guidance. She stated she believes they should have been working on goals that the therapist is willing to assess. She stated if the therapist recommends meeting monthly, every other month or as needed, the Board considers the recommendation. She stated it is probably good for Dr. Andrew to continue with his therapy. Ms. Taxin requested Dr. Andrew to ask his therapist to address in the next report where he is in therapy and if she recommends a

decrease or termination of his therapy and provide an explanation regarding Dr. Andrew being safe to practice.

Dr. Peterson clarified the Board will consider the therapists recommendation regarding Dr. Andrew's professional therapy assessment and direction.

Dr. Ramsey commented the therapist report documents Dr. Andrew's diagnosis has been resolved. He stated Dr. Andrew and the therapist should now set up an appropriate schedule. He stated Dr. Andrew is in compliance with his Stipulation and Order and his probation is scheduled to terminate December 7, 2012.

The Board determined Dr. Andrew is in compliance with his Stipulation and Order.

Following discussion the Board recommended Dr. Andrew meet telephonically on January 5, 2012.

9:50 am

Dr. Vaughn T. Johnson, Probationary
Interview

Dr. Johnson met for his probationary interview.

Dr. Hermansen conducted the interview.

Dr. Hermansen informed Dr. Johnson that the documentation of completing the required CE and the PA Delegation of Services Agreement were received. He asked if Dr. Johnson is supervising a PA.

Dr. Johnson responded no. He stated the PA is only in one day a week and he does not have much interaction with the PA.

Dr. Hermansen asked if Dr. Johnson's practice is now more of a boutique practice.

Dr. Johnson responded yes. He stated they still take insurance but are moving toward the fee up front for yearly visits. He explained their boutique practice is traditional family medicine and also covers psychiatry

and nutrition as the Physician spends more time with the patient. He stated there are some corporations who want the boutique model in their corporate offices in an effort to save money. Dr. Johnson stated he is now in the process of staffing a clinic for a corporation.

Ms. Taxin asked if Dr. Johnson refers patients with major psychiatric issues and to explain how he sets up boundaries in a more intimate setting.

Dr. Johnson responded he does refer patients out. He stated his office calls and set up an appointment while the patient is there as they try to facilitate all levels of needs for entire families. He stated in regard to boundaries the office tries to maintain a level of professionalism.

Dr. Hermansen asked about how much of Dr. Johnson practice is online medicine rather than face to face.

Dr. Johnson responded he has talked to patients on the phone but does not do any assessments or initial prescriptions by telephone. He stated all cholesterol or liver lab work might be ordered with an established patient but never with a new patient without a face to face visit and assessment.

Dr. Nye asked if Dr. Johnson will go from site to site to see patients in the corporation setting.

Dr. Johnson responded yes as there will be a clinic on site at the corporation. He voiced having mixed thoughts about the boutique practice and stated Dr. Porter and Dr. Wyle like it as there is more time to spend with the patients.

Ms. Taxin reminded Dr. Johnson to maintain the boundaries to be sure he has documented appropriately to justify every service he offers.

Dr. Hermansen asked if Dr. Johnson has continued with his notes in the charts regarding who prescribed what type of medication.

Dr. Johnson responded yes.

Ms. Taxin informed Dr. Johnson that he did not include in the Delegation of Services Agreement that he must co-sign all schedule 2 and 3 prescriptions. She stated the Board wants to make sure he understands so he is able to supervise a PA correctly as they are an extension of him.

Dr. Johnson thanked Ms. Taxin for the reminder.

Dr. Hermansen requested Dr. Johnson to explain his probationary experience and how it might be different from his last experience.

Dr. Johnson responded his probation experience has been good this time. He stated it is due to the Board and Bureau Manager personalities. Dr. Johnson stated he put faith in the Board, has taken their advice to heart and is no longer being lax in his approach to his medical license. He stated knowing he meets regularly with the Board helps him want to maintain professionalism.

Ms. Taxin asked if Dr. Johnson would relapse or relax if he did not have to meet with the Board.

Dr. Johnson responded no. He stated he believes he can be more diligent and detailed with fewer patients. He stated even though he has the electronic records he finds himself charting later in the day to finish up and every time he writes a CS he writes documentation in the chart for anyone who pulls the chart to see.

Ms. Taxin informed Dr. Johnson of the DEA doing random checks and have taken action on people who have been lax. She again reminded Dr. Johnson to document and make sure he can justify his procedures and prescriptions.

Dr. Hermansen asked if anything will change in regard to how Dr. Johnson runs his office after his probation. He explained he is trying to determine how much support Dr. Johnson receives by meeting quarterly with the Board.

Dr. Johnson responded no but he would like to educate residents on the experiences he has been through and help them understand they need to follow the rules. Dr. Johnson stated he has learned the lessons and now is diligently maintaining what he has learned.

Dr. Hermansen stated Dr. Johnson's probation is scheduled to be completed in November 2013. He stated the Board reserves the right to recommend early termination based on performance, attitude and compliance.

Ms. Taxin stated probation is meant to help practitioners and not meant as a punishment. She stated if meeting with the Board is helpful then the Board will want to continue to meet. She stated Dr. Johnson has been in compliance for three years. She asked if the Board should be concerned about anything if they recommended early termination.

Dr. Johnson responded he would be grateful for early termination of his probation as he cannot lecture while on probation. He stated he understands what he did and would not become lax in his professionalism but also would be willing to complete the last two years of his probation.

Dr. Peterson recommended the subject be on the January 5, 2012 agenda. He requested Dr. Johnson to prepare a statement and address past, present and future behavior, what changes he has made and request early termination.

Ms. Taxin requested Dr. Johnson to include a statement regarding why the Board and Division do not have to worry about the safety of the public and what he has learned.

The Board determined Dr. Johnson is in compliance with his Stipulation and Order.

An appointment was made for Dr. Johnson to meet again January 5, 2012.

10:10 am

Dr. Raymond L. Bedell, Probationary
Interview

Dr. Bedell met for his probationary interview.

Hermansen conducted the interview.

Dr. Bedell reported he does not see any females without a chaperone. He stated he has a nurse practitioner in Logan and he is at the Ogden clinic two days a week.

Dr. Hermansen stated Dr. Bedell has been out of compliance for nine months. He stated in April the Board recommended Dr. Bedell contact Ms. Harry weekly to be sure everything required had been submitted. He asked if Dr. Bedell has made that contact.

Dr. Bedell responded no and he has not been out of compliance with his Stipulation and Order.

Dr. Hermansen asked Dr. Bedell to explain his chaperone log as all entries still say re-evaluation without any further comment regarding what was re-evaluated. He also asked when the log is filled out.

Dr. Bedell responded the entries for new patients are written different but the regular patient entries will say re-evaluation as it is for medication management only. He stated the log is completed before the chaperone leaves the room or by the end of the day. He stated it is on a clip board and the chaperone has to make sure he has signed all entries for the day. He explained the chaperone enters the room and sits by the patient then he enters and sits on the other side of the chaperone. He stated he always asks if the patient is comfortable if he puts the stethoscope on their skin.

Ms. Taxin asked if there is any benefit in doing this procedure.

Dr. Bedell responded yes. He stated all Physicians should ask for consent for procedures they conduct. He stated it is a protection for him and the patient.

Dr. Hermansen stated at Dr. Bedell's last appointment Dr. Bedell discussed having someone else in charge of his paperwork to be sure it is complete and the Board had said the paperwork is his responsibility and he needs to complete it.

Ms. Taxin commented out of the many chaperone logs the Division receives Dr. Bedell's are the only logs that are unclear as to what procedure was performed.

Dr. Bedell requested a visual log to review.

Ms. Taxin gave him a log to review. She stated she believes he has explained some of the concerns of the Board but he should be more specific on the log entries in order for the Board to understand what procedures he has done. Ms. Taxin asked if Dr. Bedell had a psychological evaluation as requested by the Board as the evaluation has not been submitted.

Dr. Bedell responded he did have the evaluation from Dr. Bruce Carpenter, the psychologist Ms. Taxin recommended, and he assumed it had been sent to the Division.

Ms. Taxin reminded Dr. Bedell that he is on probation and he is the responsible person to follow up to be sure he is in compliance and that required reports and documents have been submitted and received. She acknowledged Dr. Bedell has had a bad experience and is very defensive which affects how he interacts with the Board and may affect how he interacts with his patients.

Dr. Bedell admitted he has had a bad experience. He voiced wanting out of the practice of medicine as it has been a waste of his life and career. He voiced hating to go to work and meeting with the Board.

Ms. Taxin voiced appreciation for Dr. Bedell recognizing and admitting the issue. She stated today has been the most productive meeting he has had with the Board. She stated his fighting and

pulling with the Board and his attitude are also hard on the Board. Ms. Taxin stated Dr. Bedell has two more meetings with the Board and all are hopeful that those meetings will be productive. She stated the purpose of the psychological evaluation is for Dr. Bedell to get feedback to work on some issues based on his actions and his trauma. She stated if Dr. Bedell interacted with her as a new patient the way he does in the Board meetings she would never go to another doctor. She stated he needs to be aware of how other people perceive him as it is important for him to see where the patient is. Ms. Taxin stated he should be considerate of patients and the chaperone protects him and the patient. She stated she and the Board want to be sure his patients receive good service when they are treated by Dr. Bedell. Ms. Taxin stated she believes Dr. Bedell has the skills to make his patients experience a good one.

Dr. Bedell responded he does listen to his patients, spend time with them, etc. He stated he knows how to perform as a Physician but when he meets with the Board he is defensive as he is being punished for something he did not do.

Dr. Peterson responded the Board is not here to punish Dr. Bedell as they are not trying him here. He stated the Board is concerned about the protection of the public in a non-adversarial meeting with Dr. Bedell. He stated the Board wants Dr. Bedell in compliance.

Dr. Bedell responded his probation is a punishment.

Dr. Hermansen stated he has tried to be very clear with Dr. Bedell. He stated he recommended Dr. Bedell call regarding his compliance as he is out of compliance when he arrives for his appointments. He stated he could call and leave a message if he is unable to reach a live person but he should at least call.

Dr. Bedell responded he does not like checking on things that he believes should have been taken care of

and no one answers when he does call.

Ms. Taxin responded Dr. Bedell needs to communicate with Ms. Harry, herself and the Board.

Dr. Ramsey commented it has been good to hear the things Dr. Bedell has learned as it is important to learn things that can help him.

Ms. Taxin stated at Dr. Bedell's first meetings he was very angry but she had requested he listen and try to understand how someone could walk out of his office with a negative perception. She voiced understanding fighting for something that he believes he did not do and even if the other person was wrong in the comments, Dr. Bedell has done some inappropriate things such as having a patient come in and say they saw him with another patient. She stated patient privacy should not be breached. Ms. Taxin stated she and the Board are only requesting Dr. Bedell to think about how he can be a better practitioner in the future as they are trying to protect the public and trying to make sure he makes appropriate choices. She stated when he fights with the Board it appears he is not trying. She stated he will be in compliance when Dr. Carpenter's evaluation has been received. She reminded Dr. Bedell it took until the last meeting to get a supervisor approved.

Dr. Bedell responded Ms. Taxin could have contacted him when the evaluation was not received. He stated Ms. Taxin and the Board told him what they did not want regarding a supervisor after he had one lined up. He stated he believed the Division and Board were setting him up and he is fighting for his life and what he has invested his entire fortune into.

Ms. Taxin asked Dr. Bedell what his next steps will be.

Dr. Bedell responded he is going to call Dr. Carpenter.

Ms. Taxin asked if he is going to clarify on his

chaperone logs in the future.

Dr. Bedell responded he did clarify and believes Ms. Taxin and the Board are nit-picking.

Ms. Taxin stated if Dr. Bedell has questions he needs to call Ms. Harry, Ms. McCall or her as all are hopeful he will be in compliance for his next two appointments so his probation can be terminated in compliance. She stated if he continues to be non-compliant then he will be terminated out of compliance. Ms. Taxin stated she and the Board are concerned about Dr. Bedell's practice and his patients.

Dr. Bedell responded he will follow up with Dr. Carpenter and contact Ms. Harry to be sure he is in compliance. He stated he will also be more specific on the chaperone log. He stated the psychological evaluation was quite expensive and he does not have the cash flow needed.

Dr. Peterson asked about his interaction with Dr. Duke.

Dr. Bedell responded Dr. Duke is a good Physician.

Following additional discussion the Board determined Dr. Bedell's next appointment will be in person January 5, 2012 and Dr. Duke, his supervisor, should be requested to meet telephonically.

Ms. Taxin recommended Ms. McCall contact Dr. Duke to suggest he sit in on a couple of appointments with Dr. Bedell and give Dr. Bedell feedback as it might be helpful to him and the Board could discuss those appointments with Dr. Duke at the January meeting.

Ms. Taxin will contact Dr. Bruce Carpenter to verify Dr. Bedell completed the requested psychological evaluation and, if the evaluation has been completed, Dr. Bedell would be considered in compliance, otherwise he would be out of

compliance.

DISCUSSION ITEMS:

Update on Opioid Prescribing and Controlled
Substance Database Tutorial and Examination

Ms. Taxin explained in order for all Physicians who have the controlled substance (CS) license to renew they will be required to complete a DOPL online tutorial and examination which will cover areas of the CS database, opioid prescribing, medication disposal and the Laws and Rules. She stated the tutorial is designed to make the practitioner think and hopefully learn new information regarding appropriate prescribing. She stated she is hoping it will be ready for testing this week.

Dr. Peterson asked if licensees who do not currently practice or are out of the State or Country will also be required to complete the tutorial and examination.

Ms. Taxin responded yes. She stated everyone with an active CS license will be required to complete the program to renew the license.

Annual Board Member Training

This item was deferred to January 5, 2011

Representative Evan Vickers Information
Regarding Medical Specialty Practice Act
Legislation

Ms. Taxin explained she received a letter from Representative Evan Vickers regarding proposing legislation requiring anyone who wants to make legislative changes to the professional Practice Acts to meet with the particular Board first in order to minimize last minute changes that may not be appropriate, needed or wanted. She read the letter to the Board and asked if anyone was opposed.

Board members voiced no opposition.

FYI

Ms. Taxin explained there are several cases being investigated. She stated randomly she will request an investigator to attend the Osteopathic Physicians Board meeting to update the Board on general information regarding the number of complaints, the number of open and closed cases.

The Board thanked Ms. Taxin.

2012 Board Meeting Schedule

The Board noted the following dates for the 2012 Board meeting schedule: January 5, April 5, July 19 and October 4, 2012.

Fine Authority

Ms. Taxin explained that a law change in 2011 addressed fine authority for unprofessional and unlawful conduct. She stated the Rule has not been filed to date as she has been coordinating with the UMA in figuring out language and fines that were fair to establish. She stated she and the UMA have come to an agreement and she is providing the final draft to the Board. She explained the main change from the version the Board had approved was a difference in fine amounts. Ms. Taxin stated some amounts were decreased.

After discussion and review the Board concurred with filing the Rule.

Dr. Ramsey Comment

Dr. Ramsey stated he received a letter from DOPL stating he may be one of the highest prescribers in Utah. He stated he did not believe sending this type of a letter is good practice. Dr. Ramsey stated he checks the database and the high numbers did not reflect in the CS prescriptions listed. He stated it appeared he had been singled out and as a pediatrician he does write quite a few CS prescriptions. Dr. Ramsey stated the letter seemed inappropriate.

Ms. Taxin responded Mr. Tom Harper sent out the letters and she was not made aware of the mailing until someone called her after the letter was sent out. She stated the letter was intended to make practitioners aware of their prescribing pattern and to encourage them to use the database. Ms. Taxin stated she will pass on Dr. Ramsey's comments regarding the alarm in receiving the letter, the intent not clear and receiving the letter was unappreciated as it was written.

Dr. Ramsey Question

Dr. Ramsey informed the Board of an AAOE meeting in Orlando, Florida, January 13th and 14th, 2012. He stated AAOE will fund one person to attend and he believes Utah should have a representative there.

Ms. Taxin stated there is still a no travel policy for Utah but if Dr. Ramsey wants to attend she will put through a request. She reminded all Board members that all travel must go through Utah Travel.

Dr. Ramsey stated he would like to attend.

Ms. Taxin responded she will check on sending Dr. Ramsey and get back to him.

CORRESPONDENCE:

FSMB 2011 Annual Report

Board members took copies of the report.

NBOME 2010 Annual Report

The Board reviewed the report. **No Board action was taken.**

Telemedicine

Ms. Taxin explained she has received several telephone calls regarding telemedicine and FSMB sent information to the Boards addressing the issue. She stated there is nothing in the Utah Law or Rule addressing telemedicine and maybe the Board should start thinking about it for discussion at a later date. She suggested language might be added in the Law regarding what a practitioner can do or cannot do, how to do telemedicine.

Dr. Nye commented Utah is the only State where there are companies set up to practice online prescribing. He asked how they are able to prescribe without seeing the patients and evaluating them.

Ms. Taxin responded online prescribing is not considered telemedicine as per Statute but there are two companies licensed in Utah for online prescribing. She stated the medications they are allowed to prescribe are limited to erectile dysfunction, smoking cessation aid, hormonal based contraception, topical cream to lighten dark spots and discoloration of the skin and cream to treat light cases of acne, wrinkles and sun damaged skin.

**The Board voiced concern about the online
prescribing Law.**

Ms. Taxin stated she believes there are procedures
which could be changed to better protect the public.

Ms. Taxin requested the Board to review the FSMB
telemedicine information for discussion at a later
meeting.

NEXT MEETING SCHEDULED FOR:

January 5, 2012

ADJOURN:

The time is 11:50 am and the Board meeting is
adjourned.

*Note: These minutes are not intended to be a verbatim transcript but are intended to record the
significant features of the business conducted in this meeting. Discussed items are not necessarily
shown in the chronological order they occurred.*

January 5, 2012
Date Approved

(ss) Warren Peterson, DO
Chairperson, Utah Osteopathic Physician & Surgeon's
Licensing Board

November 7, 2011
Date Approved

(ss) Noël Taxin
Bureau Manager, Division of Occupational &
Professional Licensing